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1952

File No. O. Press and Regis. of Books 52

Legal Department

A **BRANCH**

p 1(E)

Subject:—Opinions under the Press and Registration of Books Act 1867

File No. O. Press & Regis. of Books/52

Gen. 194

C O N T E N T S.

Legal Department File No. O . Press and Regis. of Books / 52

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S.A. .
18-6
5 copies

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"Publisher", meaning of-
Press and Registration of Books Act, 1867
Sections 3 and 5.

R.L.A.'s opinion No. 5107 dt. 10-5-1949.

In Emp. v. Dattatraya, 38 Bom. L.R. 1115, a similar question arose for consideration and in delivering judgment in that case, Beaumont C.J. at p. 1120 observed;

> "It is quite clear that the publisher of the paper referred to in section 3 and section 5 is the man who publishes it in the ordinary sense of the term, that is to say, arranges with the proprietor for & its distribution, and a mere seller or distributer of the paper is not a publisher under either of these sections. In my opinion the only person who can be guilty of publishing under section 12 is the person who - is performing the act of a publisher within section 3 and section 5."

Kassoodev, J., who delivered a separate but concurring judgment in that case, was also inclined to give a restricted meaning to the word "publisher" as meanin a person who has undertaken to print certain matter for public circulation" (Ibid p. 1126). In view of this judicial interpretation, it is clear that the term "publisher" must be intergreted in the ordinary sense and the questi n as to who should be held to be a "publisher" would be a question of fact to be decided on the evidence in the case. As it is established that the leaflet was printed at the instance of the District Congress Committee, it should not be difficult for the Police to find out who in fact was the publisher. Mere printing of the President's name on the leaflet will not be sufficient to fix him with the liability (cf. R.L.A.'s opinion No. 5107 dated 10-5-1949); though it would be prima facie evidence in favour of the prosecution.

Sd/- P.N.Lnd

28-8

O.S .Remembr ncer of Legal Affairs

U.M. to H.D.No. 14111, dated the 29th August 1952.

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16-6

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Sections 3 and 5 of the Press and Registration of Books Act, 1867, require the name of the printer, publisher and editor of the paper to be printed on the paper. The term "name" is not defined in the Act, but the distinction between name and alias is well-known. Etymologically "alias" means at another time; otherwise. It is in this latter sense of "otherwise" that the word is adopted in English. "Alias", therefore, literally means "otherwise xxx called or named". As was observed in the American case of Reid v. Lord, 4 Johnsen (N.Y.) 118, quoted in Ballentine's Law Dictionary under the head "alias dictus" (Also called), "the true name is that which precedes an alias dictus. An alias dictus, as one of the old cases says, is only reputation, and is not the truth." This would show that alias cannot take the place of name where the law requires that name is to be given. The person in question himself has stated his name in the declaration followed by alias which again shows that his name is different from alias. Since the section requires the name, it would be legal to insist upon the name being printed.

Sd/-P.M.Lad
14-10

S.O. Remembrancer of Legal Affairs

U.D. to H.D.No. 17080/A, dated 14th October 1952.

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Press and Registration of Books Act, 1867- Sec. 9- Supply of copies of books under-

The question referred to the Remembrancer of Legal Affairs has no practical interest. Requisite number of copies have in fact been supplied to the Central Library, Bombay and the Maharashtra Regional Library, Poona, as required under rule 5(2) of the Bombay Press and Registration of Books Rules, 1923. It is true that a copy has not been delivered to the District Magistrate but the copies have been supplied to Government at the offices of the Director of Education and the Director of Archives. An additional set of the volumes, received by the Director of Archives, may, if necessary, be obtained from him and sent to the District Magistrate for necessary action under rule 8 of the said rules. The provisions of the Press and Registration of Books Act, 1867, appear to have been materially complied with in this case and it would not, therefore, be worthwhile to pursue the claim against the printers or the publishers in question under the said Act.

Sd/—P.R.Lad

12-12

C.O. Remembrancer of Legal Affairs.

U.R. to L.D.M-c . 20977/A dated the 13th December 1952.

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The Press and Registration of Books Act, 1867 (XXV of 1867) is intended for the regulation of printing presses and newspapers, for the preservation of copies of books printed in India and for the registration of such books. "Book" has been defined in section 1 of the Act to include every volume, part or division of a volume, and pamphlet, in any language and every sheet of music, map, chart or plan separately printed or lithographed. The definition is no doubt inclusive and not exhaustive, although it must be pointed out that in the case of Madhusudan Mahanti v. Emperor (A.I.R. 1940 Patna 613) Chatterji J. of the Patna High Court took the view that the definition was exhaustive and that it was wrong to say that "book" may include documents other than those specifically mentioned in the definition. Having regard to the object of the Act and the general tenor of the definition, it would seem that what is sought to be preserved and registered is books and pamphlets in the ordinary connotation together with such printed material which, instead of a regular script, uses linear representation or other symbols. A picture would not be of the same class even for the purpose of assimilating it in the inclusive definition. It is significant to note that the notification issued by the Government of the Punjab virtually treats the picuture as a document for the purposes of section 99A of the Code of Criminal Procedure. On the whole, therefore, the safer view would be to hold that a picture does not come within the the definition of "book".

Sd/-P.M.Lad

25-11

O.C. Remembrancer of Legal Affairs.

U.O. to H.D.No. 1302/A.-Confl. dated the 25th Nov. 1952.
S.A.K /16-6/ & c.

L.D.R.I.No. 31170 dt. 26-12-52.

Submitted with reference to H.D. note dated 20-12-52.

It appears that the Samaj Sevak Sangh has been issuing in manuscript a monthly for the last seven years containing grievances of the public of the Kolaba Dist. and was furnishing their copies to the Bhor State authorities before merger of Bhor and after merger to the Govt. of India and to the State Govt. The issues of the 1st July, 22nd and 20th Sept. 1952 were printed for the purpose of supplying copies thereof to members of the Bombay Legislature and of the Parliament.

In order to furnish copies of the 7th May to the Central and Bombay State Govts. it was printed and then copies were furnished. As these issues have been printed without observing the provisions of the Press and Registration Act, 1867, Shri Kulkarni Hon. Secretary of the Samaj requests ~~seeing~~ Govt. to exempt these from operation of the Act by means of a notification under the Act. H.D. considers that as the issues are not newspaper within the meaning of the Press and Registration Act, 1867 printing them without a declaration being made under section 5 is not an infringement of the Act. On the contrary the issues fall under the term "Newspaper" as defined in the Press (Objectionable Matter) Act, 1951 and would be subject to that Act. The R.L.A. is requested to advise.

Sd/- P.N.Lad
3-12

R.L.A.

S.A.K.
4-30pm

Office of the R.L.A.

The view taken by the Home Department in paragraph 4 of its office note is correct correct.

Sd/-F.M.Lad

2-1-53

Remembrancer of Legal Affairs.

U.O. to H.D.No. 123/A. dated the 3rd January 1953.

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1-6
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